

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LIYOU XING,
on his behalf and on behalf of others similarly
situated

Plaintiffs,

-against-

MAYFLOWER INTERNATIONAL HOTEL
GROUP INC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER BUSINESS GROUP, LLC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER INN CORPORATION

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER WENYU LLC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

YAN ZHI HOTEL MANAGEMENT INC.

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

MAYFLOWER 1-1 LLC

d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;

YUEHUA HU,

WEI HONG HU a/a/ Weihong Hu, and

XIAOZHUANG GE

Defendants.

-----X

Case No. 18-cv-06616

**29 U.S.C. § 216(b)
COLLECTIVE ACTION &
FED. R. CIV. P. 23 CLASS
ACTION**

**VERIFIED ANSWER TO
COMPLAINT**

Defendants MAYFLOWER INTERNATIONAL HOTEL GROUP INC d/b/a
Mayflower Hotel and d/b/a Wyndham Garden; MAYFLOWER BUSINESS GROUP,
LLC d/b/a Mayflower Hotel and d/b/a Wyndham Garden; MAYFLOWER INN
CORPORATION d/b/a Mayflower Hotel and d/b/a Wyndham Garden; MAYFLOWER
WENYU LLC d/b/a Mayflower Hotel and d/b/a Wyndham Garden; YAN ZHI HOTEL
MANAGEMENT INC. d/b/a Mayflower Hotel and d/b/a Wyndham Garden; and

MAYFLOWER 1-1 LLC d/b/a Mayflower Hotel and d/b/a Wyndham Garden, WEI HONG HU a/k/a Weihong Hu (“Answer”), and XIAOZHUANG by and through their attorneys, KEVIN KERVENG TUNG, P.C., by way of Answer to Plaintiff’s Complaint (“Complaint”), allege as follows:

INTRODUCTION

1. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

2. Defendants deny each and every allegation contained in Paragraph 2 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

3. Defendants deny each and every allegation contained in Paragraph 3 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

4. Defendants deny each and every allegation contained in Paragraph 4 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

JURISDICTION AND VENUE

5. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

PLAINTIFF

7. Defendants deny each and every allegation contained in Paragraph 7 of the Complaint.

8. Defendants deny each and every allegation contained in Paragraph 8 of the Complaint.

DEFENDANTS

Corporate Defendants

9. Defendants deny each and every allegation contained in Paragraph 9 of the Complaint except admit that MAYFLOWER INTERNATIONAL HOTEL GROUP INC is a domestic business corporation organized under the laws of the State of New York with a principal executive office at 38-61 12th Street, Long Island City, NY 11101.

10. Defendants deny each and every allegation contained in Paragraph 10 of the Complaint except admit that MAYFLOWER BUSINESS GROUP is a domestic business corporation organized under the laws of the State of New York with the place of DOS Process currently located at 61-27 186th Street, Long Island City, NY 11101.

11. Defendants deny each and every allegation contained in Paragraph 11 of the Complaint except admit that MAYFLOWER INN CORPORATION is a domestic business corporation organized under the laws of the State of New York with the place of DOS Process currently located at 38-59 12th Street, Long Island City, NY 11101.

12. Defendants deny each and every allegation contained in Paragraph 12 of the Complaint except admit that MAYFLOWER WENYU LLC is a domestic business corporation organized under the laws of the State of New York with the place of DOS Process currently located at 61-27 186th Street, Long Island City, NY 11101.

13. Defendants deny each and every allegation contained in Paragraph 13 of the Complaint except admit that YAN ZHI HOTEL MANAGEMENT INC. is a domestic business corporation organized under the laws of the State of New York with the place of DOS Process currently located at 38-61 12th Street, Long Island City, NY 11101.

14. Defendants deny each and every allegation contained in Paragraph 14 of the Complaint except admit that MAYFLOWER 1-1 LLC is a domestic business corporation organized under the laws of the State of New York with the place of DOS Process currently located at 38-61 12th Street, Long Island City, NY 11101.

Owner/Operator Defendants

15. Defendants deny each and every allegation contained in Paragraph 15 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint.

17. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

18. Defendants deny each and every allegation contained in Paragraph 18 of the Complaint.

19. Defendants deny each and every allegation contained in Paragraph 19 of the Complaint.

20. Defendants deny each and every allegation contained in Paragraph 20 of the Complaint.

21. Defendants deny each and every allegation contained in Paragraph 21 of the Complaint except admit that WEI HONG HU is the wife of XIAOZHUANG GE.

22. Defendants deny each and every allegation contained in Paragraph 22 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

23. Defendants deny each and every allegation contained in Paragraph 23 of the Complaint.

24. Defendants deny each and every allegation contained in Paragraph 24 of the Complaint.

25. Defendants deny each and every allegation contained in Paragraph 25 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

STATEMENT OF FACTS

Defendants Constitute an Enterprise

26. Defendants deny each and every allegation contained in Paragraph 26 of the Complaint.

27. Defendants deny each and every allegation contained in Paragraph 27 of the Complaint.

28. Defendants deny each and every allegation contained in Paragraph 28 of the Complaint.

29. Defendants deny each and every allegation contained in Paragraph 29 of the Complaint.

30. Defendants deny each and every allegation contained in Paragraph 30 of the Complaint.

31. Defendants deny each and every allegation contained in Paragraph 31 of the Complaint.

32. Defendants deny each and every allegation contained in Paragraph 32 of the Complaint.

33. Defendants deny each and every allegation contained in Paragraph 33 of the Complaint.

34. Defendants deny each and every allegation contained in Paragraph 34 of the Complaint.

35. Defendants deny each and every allegation contained in Paragraph 35 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

36. Defendants deny each and every allegation contained in Paragraph 36 of the Complaint.

37. Defendants deny each and every allegation contained in Paragraph 37 of the Complaint.

38. Defendants deny each and every allegation contained in Paragraph 38 of the Complaint.

Wage and Hour Claims

39. Defendants deny each and every allegation contained in Paragraph 39 of the Complaint.

40. Defendants deny each and every allegation contained in Paragraph 40 of the Complaint.

41. Defendants deny each and every allegation contained in Paragraph 41 of the Complaint.

42. Defendants deny each and every allegation contained in Paragraph 42 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

43. Defendants deny each and every allegation contained in Paragraph 43 of the Complaint.

44. Defendants deny each and every allegation contained in Paragraph 44 of the Complaint.

45. Defendants deny each and every allegation contained in Paragraph 45 of the Complaint.

46. Defendants deny each and every allegation contained in Paragraph 46 of the Complaint.

47. Defendants deny each and every allegation contained in Paragraph 47 of the Complaint.

Plaintiff LIYOU XING

48. Defendants deny each and every allegation contained in Paragraph 48 of the Complaint.

49. Defendants deny each and every allegation contained in Paragraph 49 of the Complaint.

50. Defendants deny each and every allegation contained in Paragraph 50 of the Complaint.

51. Defendants deny each and every allegation contained in Paragraph 51 of the Complaint.

52. Defendants deny each and every allegation contained in Paragraph 52 of the Complaint.

53. Defendants deny each and every allegation contained in Paragraph 53 of the Complaint.

54. Defendants deny each and every allegation contained in Paragraph 54 of the Complaint.

55. Defendants deny each and every allegation contained in Paragraph 55 of the Complaint.

56. Defendants deny each and every allegation contained in Paragraph 56 of the Complaint.

57. Defendants deny each and every allegation contained in Paragraph 57 of the Complaint.

58. Defendants deny each and every allegation contained in Paragraph 58 of the Complaint.

59. Defendants deny each and every allegation contained in Paragraph 59 of the Complaint.

60. Defendants deny each and every allegation contained in Paragraph 60 of the Complaint.

61. Defendants deny each and every allegation contained in Paragraph 61 of the Complaint.

62. Defendants deny each and every allegation contained in Paragraph 62 of the Complaint.

63. Defendants deny each and every allegation contained in Paragraph 63 of the Complaint.

64. Defendants deny each and every allegation contained in Paragraph 64 of the Complaint.

65. Defendants deny each and every allegation contained in Paragraph 65 of the Complaint.

66. Defendants deny each and every allegation contained in Paragraph 66 of the Complaint except admit that from July 1, 2017 to July 31, 2017, Plaintiff LIYOU XING was paid three thousand six hundred ninety-six dollars (\$3,696.00) as compensation.

67. Defendants deny each and every allegation contained in Paragraph 67 of the Complaint except admit that from August 1, 2017 to August 31, 2017, Plaintiff LIYOU XING was paid four thousand forty-eight dollars (\$4,048.00) as compensation.

68. Defendants deny each and every allegation contained in Paragraph 68 of the Complaint except admit that from September 1, 2017 to September 31, 2017, Plaintiff LIYOU XING was paid three thousand six hundred ninety-six dollars (\$3,696.00) as compensation.

69. Defendants deny each and every allegation contained in Paragraph 69 of the Complaint except admit that from October 1, 2017 to July 31, 2018, Plaintiff LIYOU XING was paid three thousand eight hundred seventy-two dollars (\$3,872.00) as compensation per month.

70. Defendants deny each and every allegation contained in Paragraph 70 of the Complaint except admit that from August 1, 2018 to August 31, 2018, Plaintiff LIYOU XING was paid three thousand two hundred seventy-six dollars thirty-one cents (\$3,276.31) as compensation.

71. Defendants deny each and every allegation contained in Paragraph 71 of the Complaint.

72. Defendants deny each and every allegation contained in Paragraph 72 of the Complaint.

73. Defendants deny each and every allegation contained in Paragraph 73 of the Complaint.

74. Defendants deny each and every allegation contained in Paragraph 74 of the Complaint.

75. Defendants deny each and every allegation contained in Paragraph 75 of the Complaint.

COLLECTIVE ACTION ALLEGATIONS

76. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 76 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

CLASS ACTION ALLEGATIONS

77. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

78. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of the Complaint.

79. Defendants deny each and every allegation contained in Paragraph 79 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

Numerosity

80. Defendants deny each and every allegation contained in Paragraph 80 of the Complaint.

Commonality

81. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

Typicality

82. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 82 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

Adequacy

83. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 83 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

Superiority

84. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 84 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

85. Defendants deny each and every allegation contained in Paragraph 85 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

STATEMENT OF CLAIMS

COUNT I

**[Violations of the Fair Labor Standards Act-Unpaid Wages
Brought on behalf of the Plaintiff and the FLSA Collective]**

86. Defendants deny each and every allegation contained in Paragraph 86 of the Complaint as otherwise pleaded herein.

87. Defendants deny each and every allegation contained in Paragraph 87 of the Complaint.

88. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 88 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

89. Defendants deny each and every allegation contained in Paragraph 89 of the Complaint.

COUNT II

**[Violation of New York Labor Law-Unpaid Wages
Brought on behalf of the Plaintiff and Rule 23 Class]**

90. Defendants deny each and every allegation contained in Paragraph 90 of the Complaint as otherwise pleaded herein.

91. Defendants deny each and every allegation contained in Paragraph 91 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

92. Defendants deny each and every allegation contained in Paragraph 92 of the Complaint.

93. Defendants deny each and every allegation contained in Paragraph 93 of the Complaint.

94. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

COUNT III
[Violations of the Fair Labor Standards Act-Failure to Pay Overtime
Brought on behalf of the Plaintiff and the FLSA Collective]

95. Defendants deny each and every allegation contained in Paragraph 95 of the Complaint as otherwise pleaded herein.

96. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 96 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

97. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 97 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

98. Defendants deny each and every allegation contained in Paragraph 98 of the Complaint.

99. Defendants deny each and every allegation contained in Paragraph 99 of the Complaint.

100. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

101. Defendants deny each and every allegation contained in Paragraph 101 of the Complaint.

102. Defendants deny each and every allegation contained in Paragraph 102 of the Complaint.

COUNT IV
[Violation of New York Labor Law-Failure to Pay Overtime
Brought on behalf of the Plaintiff and Rule 23 Class]

103. Defendants deny each and every allegation contained in Paragraph 103 of the Complaint as otherwise pleaded herein.

104. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 104 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

105. Defendants deny each and every allegation contained in Paragraph 105 of the Complaint.

106. Defendants deny each and every allegation contained in Paragraph 106 of the Complaint.

107. Defendants deny each and every allegation contained in Paragraph 107 of the Complaint.

COUNT V
[Violations of New York Labor Law-Spread of Time Pay]

Brought on behalf of Plaintiff and Rule 23 Class]

108. Defendants deny each and every allegation contained in Paragraph 108 of the Complaint as otherwise pleaded herein.

109. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

110. Defendants deny each and every allegation contained in Paragraph 110 of the Complaint.

COUNT VI

**[Violations of New York Labor Law-Failure to Provide Meal Periods
Brought on behalf of Plaintiff and Rule 23 Class]**

111. Defendants deny each and every allegation contained in Paragraph 111 of the Complaint as otherwise pleaded herein.

112. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 112 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

113. Defendants deny each and every allegation contained in Paragraph 113 of the Complaint.

114. Defendants deny each and every allegation contained in Paragraph 114 of the Complaint.

115. Defendants deny each and every allegation contained in Paragraph 115 of the Complaint.

COUNT VII

**[Violations of New York Labor Law-Failure to Keep Records
Brought on behalf of Plaintiff and Rule 23 Class]**

116. Defendants deny each and every allegation contained in Paragraph 116 of the Complaint as otherwise pleaded herein.

117. Defendants deny each and every allegation contained in Paragraph 117 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

118. Defendants deny each and every allegation contained in Paragraph 118 of the Complaint.

119. Defendants deny each and every allegation contained in Paragraph 119 of the Complaint.

120. Defendants deny each and every allegation contained in Paragraph 120 of the Complaint.

COUNT VIII

[Violations of New York Law-Failure to Provide Time of Hire Wage Notice Brought on behalf of the Plaintiff and Rule 23 Class]

121. Defendants deny each and every allegation contained in Paragraph 121 of the Complaint as otherwise pleaded herein.

122. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

123. Defendants deny each and every allegation contained in Paragraph 123 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

124. Defendants deny each and every allegation contained in Paragraph 124 of the Complaint.

125. Defendants deny each and every allegation contained in Paragraph 125 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

COUNT IX
[Violations of New York Labor Law-Failure to Provide Wage Statements
Brought on behalf of the Plaintiff and Rule 23 Class]

126. Defendants deny each and every allegation contained in Paragraph 126 of the Complaint as otherwise pleaded herein.

127. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 127 of the Complaint and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

128. Defendants deny each and every allegation contained in Paragraph 128 of the Complaint.

129. Defendants deny each and every allegation contained in Paragraph 129 and respectfully refer the Court to the underlying statutes for the precise and accurate interpretation.

FIRST SEPARATE DEFENSE

130. The Complaint fails to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

131. This action must be dismissed by reason of insufficiency of service of process.

THIRD SEPARATE DEFENSE

132. The Court lacks personal jurisdiction over the answering Defendants because the Summons and Complaint was not properly served upon the answering Defendants.

FOURTH SEPARATE DEFENSE

133. Plaintiff was not “covered” employees under Federal Labor Standards Act.

FIFTH SEPARATE DEFENSE

134. Plaintiff’s state claims are, in whole or in part, barred when Plaintiff failed to comply with pre-litigation requirements pursuant to state laws.

SIXTH SEPARATE DEFENSE

135. Plaintiff’s claims are barred, precluded, or limited by the doctrine of unclean hands.

SEVENTH SEPARATE DEFENSE

136. The Court shall not employ supplement jurisdiction over Plaintiff’s New York Labor Law claims when Plaintiffs fail to state a claim under Fair Labor Standards Act.

EIGHTH SEPARATE DEFENSE

137. Plaintiff’s claims are, in whole or in part, barred due to statute of limitation.

NINETH SEPARATE DEFENSE

138. Plaintiff’s claims are barred, precluded, or limited by the doctrine of laches.

TENTH SEPARATE DEFENSE

139. Plaintiff’s claims are barred, precluded, or limited by the doctrine of estoppel.

NINETH SEPARATE DEFENSE

140. Plaintiff's claims are barred, precluded, or limited by the doctrine of waiver.

TENTH SEPARATE DEFENSE

141. Plaintiff failed to mitigate damages.

ELEVENTH SEPARATE DEFENSE

142. Plaintiff's claims are barred, precluded, or limited by the doctrine of waiver.

TWELFTH SEPARATE DEFENSE

143. The answering Defendants not being fully advised as to all the facts and circumstances surrounding the incident complain of, hereby assert and reserve unto themselves the defense of accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, and any other matter constituting an avoidance or affirmative defense.

144. The answering Defendants reserve the right to assert additional affirmative defenses as such additional defenses become known through investigation, discovery or otherwise.

DEMAND FOR A JURY

The answering Defendants demand a jury on all issues.

WHEREFORE, the Defendants demand a judgment as follows:

1. Dismissing the Plaintiff's Complaint with prejudice in its entirety;
2. Awarding Defendants' costs and disbursement and reasonable attorney's fees; and
3. Granting such other and further relief as the Court may deem just and proper.

Date: Queens, New York
January 7, 2019

Respectfully submitted,
KEVIN KERVENG TUNG, P.C.

/s/ Kevin K. Tung
By: Kevin K Tung, Esq.
Attorneys for Defendants

MAYFLOWER INTERNATIONAL
HOTEL GROUP INC
d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;
MAYFLOWER BUSINESS GROUP,
LLC
d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;
MAYFLOWER INN CORPORATION
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YAN ZHI HOTEL MANAGEMENT
INC.
d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;
MAYFLOWER 1-1 LLC
d/b/a Mayflower Hotel and
d/b/a Wyndham Garden;
WEI HONG HU a/a/ Weihong Hu, and
XIAOZHUANG GE

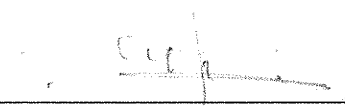
136-20 38th Avenue, Suite 3D
Flushing, New York 11354
(718) 939-4633

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF QUEENS)

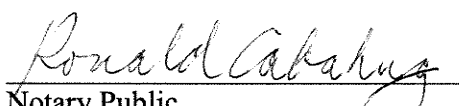
Weihong Hu, being duly sworn, deposes and says:

I am the defendant in the above captioned action. I have read the foregoing pleading and know the contents thereof; the same is true to my own knowledge except as to those matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.



Weihong Hu Defendant

Sworn to before me this
7th day of January, 2019



Notary Public

RONALD J. CABAHO
Notary Public, State of New York
No. 01CA6319280
Commission Expires 2/17/2019